

Before the  
Federal Communications Commission  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of:

Connecticut Department of Public Utility  
Control Petition for Rulemaking

RM No. 9258

**Reply Comments of AirTouch Communications, Inc.**

AirTouch Communications, Inc. ("AirTouch")<sup>1</sup>, hereby submits its reply comments in response to the Public Notice regarding the Connecticut Department of Public Utility Control ("Connecticut"), "Petition for an Amendment to Rulemaking." ("Petition"). At the outset, AirTouch brings the Commission's attention to the fact that the majority of commenters in this proceeding concur with AirTouch's view that the Petition should be denied.<sup>2</sup>

Of the 22 comments filed in response to the Public Notice, only four affirmatively support Connecticut's proposal.<sup>3</sup> Like Connecticut, however, none of these commenters

<sup>1</sup> AirTouch is a CMRS provider with interests in cellular, paging, PCS and mobile satellite services, both domestic and international.

<sup>2</sup> See generally Comments of AT&T Wireless Services, Inc.; Comments of the Cellular Telecommunications Industry Association; Comments of MCI Telecommunications Corporation; Comments of Northcoast Communications, LLC; Comments of PageNet Network, Inc.; Comments of SBC Wireless, Inc.; Comments of Sprint Spectrum L.P.; Comments of Teleport Communications Group Inc.; Comments of TSR Wireless LLC; Comments of the United States Telephone Association; Comments of Vanguard Cellular Systems, Inc.

<sup>3</sup> See Comments of The Ad Hoc Telecommunications Users Committee at 1; Comments of Omnipoint Communications, Inc. at 2 (Omnipoint only supports the Petition to the extent

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provides a compelling rationale for overturning the Commission's established precedent prohibiting the use of service-specific and technology-specific area code overlays. Instead, these parties merely parrot the flawed arguments advanced by Connecticut in its Petition. These arguments were unpersuasive when made and are not rendered otherwise through repetition.

Like Connecticut, some supporting commenters inappropriately focus on the existence of wireline/wireless competition as the key rationale underlying the Commission's decisions<sup>4</sup> in the *Ameritech Order*<sup>5</sup> and the *Local Competition Second Order*.<sup>6</sup> The existence of direct wireline/wireless competition, however, has no affect on whether service-specific overlays are impermissibly discriminatory in contravention of

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that it requests that the Commission rethink its total prohibition of service and technology-specific overlays. Omnipoint explicitly does not concur with the Petition's premise that a wireless-only overlay is appropriate where direct wireline/wireless competition is not present.); Comments of State Advocates in Support of Allowing an Area Code Overlay for Mobile Carriers at 1; Comments of the Public Utilities Commission of Texas at 1.

<sup>4</sup> State Advocates Comments at 9-10; Ad Hoc Committee Comments at 2; Texas PUC Comments at 4-5. In fact, the State Advocates themselves recognize that the true basis for the Commission's prohibition of service-specific overlays is the prevention of discrimination. The State Advocates' comments state, "the FCC has based its earlier prohibition against an area code for wireless service providers based upon the assumption that such a service specific overlay would *discriminate* against wireless services providers." State Advocates Comments at 9 (emphasis supplied).

<sup>5</sup> *Declaratory Ruling and Order*, 10 FCC Rcd 4596 (1995) ("*Ameritech Order*").

<sup>6</sup> *Second Report and Order and Memorandum Opinion and Order*, 11 FCC Rcd 19392 (1996) ("*Local Competition Second Order*").

Commission precedent<sup>7</sup> and the Telecommunications Act of 1996.<sup>8</sup> None of the supporting commenters adequately explains how a wireless-only overlay would overcome the statutory prohibition on discriminatory treatment of telecommunications carriers.

The record, however, is replete with examples of how the Connecticut numbering proposal is unnecessarily discriminatory toward wireless carriers.<sup>9</sup> As AT&T Wireless aptly states, “a wireless overlay would cause the highest costs, the most customer confusion, disruption and inconvenience, and the longest delays in implementation of any possible code relief method available to the states.”<sup>10</sup> Unlike wireline telephones, AT&T Wireless and other commenters explain, wireless handsets must be reprogrammed either remotely or, in some cases, onsite at a customer service center depending on the type of the handset a customer owns.<sup>11</sup> In addition, commenters such as SNET Cellular note that the phone number take backs typically associated with service-specific overlays will create enormous customer inconvenience and expense that will be borne solely by wireless customers.<sup>12</sup> AT&T Wireless also points out that a wireless-only overlay will create

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<sup>7</sup> Segregation of “particular types of telecommunications services or particular types of telecommunications technologies in discrete area codes would be unreasonably discriminatory and would unduly inhibit competition.” *Id.* at ¶ 285.

<sup>8</sup> 47 U.S.C. § 251(e)(1).

<sup>9</sup> *See, e.g.*, AT&T Wireless Comments at 8-10; CTIA Comments at 3, 5; GTE Comments at 11-12; MCI Comments at 3-7; Northcoast Comments at 2-3; PageNet Comments at 7-8; SBC Comments at 5-6; SNET Comments at 11-12; Sprint Spectrum Comments at 5-7; Vanguard Comments at 3-5.

<sup>10</sup> AT&T Wireless Comments at 8.

<sup>11</sup> *Id.* at 8-9.

<sup>12</sup> SNET Cellular Comments at 11-12.

discriminatory dialing disparity for wireless users – wireless phones will require 10-digit dialing, while wireline phones will only require 7-digit dialing.<sup>13</sup> The discriminatory effects that will be engendered by adoption of Connecticut's proposal are wholly inconsistent with Commission precedent and the Telecommunications Act.

Some of the supporting commenters also attempt to rationalize a wireless-only overlay by suggesting that increased wireless usage alone is the basis for increased demands on numbering resources.<sup>14</sup> Clearly, as appropriately recognized by one supporter of the Petition, this is not the case. Unlike other supporters of the Petition, the Texas PUC correctly acknowledges that code exhaust is not simply attributable to wireless carriers, but is also caused by “the increase in multiple lines for homes and businesses, and new market entrants in the wireline industry.”<sup>15</sup> Because *all* carriers contribute to numbering exhaust, it is an issue that affects *all* telecommunications carriers. For this reason, the Commission should not allow states to select a numbering relief mechanism that would unduly (and discriminatorily) burden only one segment of the telecommunications industry.<sup>16</sup>

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<sup>13</sup> AT&T Comments at 9.


<sup>14</sup> See State Advocates Comments at 6; Ad Hoc Committee Comments at 2.

<sup>15</sup> Texas PUC Comments at 2. See also Nextel Comments at 4-5 (“wireless carriers are not the sole, or even the primary, cause of telephone number exhaust; on the contrary, it is the entry of new competitors in both wireline and wireless markets, coupled with a number assignment procedure designed for a monopoly carrier environment, that is causing the shortage of telephone numbers.”)

<sup>16</sup> Accord Nextel Comments at 4-5.

Accordingly, for all of the reasons set forth above and in AirTouch's opening comments, the Commission should deny the Petition.

Respectfully submitted,

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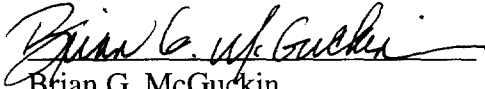
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## Certificate of Service

I, Brian McGuckin, hereby certify that a copy of the foregoing Reply Comments of AirTouch Communications, Inc. was sent by hand or United States first-class mail, postage prepaid, on this the 18th day of May, 1998 to the parties listed below.



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